

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Crl.MC.No. 2954 of 2007()

CRIME NO.227/2007 OF PATHANAMTHITTA POLICE STATION
C.P.NO.115/07 OF Judicial Magistrate of the First Class-I
PATHANAMTHITTA

PETITIONER:

SADANANDAN, S/O.PACHAN, AGED 53 YEARS,
KALLITTA THEKKETHIL VEEDU,
VALLIKODU VILLAGE, KOZHENCHERRY TALUK,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.G.PRIYADARSAN THAMPI

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, PATHANAMTHITTA POLICE
STATION THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2954 of 2007

Dated this the 24th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. The petitioner was not ever arrested at the crime stage or later. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. Committal proceedings has been registered. The petitioner has not entered appearance. Summons has been issued by the learned Magistrate against the petitioner.

2. According to the petitioner, he is absolutely innocent. His failure to appear earlier at the crime stage was not wilful or deliberate. The petitioner is prepared to appear before the learned Magistrate in obedience to the summons issued. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself .

5. Needless further to say that the petitioner's application for regular bail will have to be considered in the light of Sukumari v. State of Kerala [2001(1)KLT 22]).

(R.BASANT, JUDGE)

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007